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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,488	03/29/2001	Youssef El-Shoubary	20844	5295
210	7590	09/05/2003		14
MERCK AND CO INC P O BOX 2000 RAHWAY, NJ 070650907			EXAMINER	JOHNSON, EDWARD M
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/820,488	EL-SHOUBARY ET AL.
	Examiner Edward M. Johnson	Art Unit 1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 July 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,5,6,10,12,20,22 and 24-33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 26-33 is/are allowed.

6) Claim(s) 1,2,5,24 and 25 is/are rejected.

7) Claim(s) 6,10,12,20 and 22 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 27 June 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) Interview Summary (PTO-413) Paper No(s) _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because it is labeled "Fig. 1", which should be deleted, since there is only one figure in the case. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Throughout the application, the drawing is referred to as "Fig. 1", which should be replaced with --the figure--, since there is only one figure in the application.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international

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application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Abler US 5,496,785.

Regarding claim 1, Abler '785 discloses a dual impregnated activated carbon suitable for filtering contaminants (abstract) comprising activated carbon and group 6-12 salts including copper chloride (see column 2, line 56) in an amount of at least 0.5, or more specifically 1 to 10 weight percent (see paragraph bridging columns 2-3).

Regarding claim 2, Abler '785 discloses wood, coal, coconut, and organic polymers (see column 2, lines 19-21).

Regarding claim 3, Abler '785 discloses 1.5-40% metals (see column 3, lines 35-36 and 41-42).

Regarding claim 5, Abler '785 discloses potassium permanganate also may be included (see column 1, lines 30-32).

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Peng US 5,529,970.

Regarding claim 1, Peng '970 discloses an adsorbent comprising a submicron support (see column 3, lines 15-16) and at least 15 weight percent cupric chloride (see column 3, lines 46-48).

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by JP 11-226389 (English abstract also attached).

Regarding claim 1, JP '389 discloses a high surface area (see Table) adsorbent comprising 10-35 mass % of copper chloride (see abstract).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peng '970.

Peng fails to discloses activated or graphite carbon as support.

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use activated carbon as support in the cupric chloride comprising adsorbent of Peng because Peng discloses prior art supports of activated or graphite carbon for copper halide (see

column 1, lines 57-67) and that supports are well known in the prior art (see column 5, lines 14-16).

9. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abler '785 as applied to claims 1 and 5 above, and further in view of Kienow et al. US 6,352,956.

Kienow '956 discloses removal of dioxins, furans, and heavy metals (see column 1, lines 25-28).

It is considered that it would have been obvious to one of ordinary skill in the art at the time the invention was made to intend to use the removal of dioxins, furans, and heavy metals (see column 1, lines 25-28) of Kienow with the adsorbent of Abler because Abler discloses his compositions suitable for filtering gaseous contaminants (see abstract), and Kienow discloses his calcium hydroxide in an activated coke (abstract) contaminant cleaning adsorbent (see column 1, lines 15-35) to be useful in essentially all exhaust gas cleaning systems as reactive calcium compounds (see column 3, lines 61-67 and column 4, lines 1-9).

Allowable Subject Matter

10. Claims 6, 10, 12, 20, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 26-33 are allowed.
12. The following is a statement of reasons for the indication of allowable subject matter: An adsorption powder having the percentages of compounds including the percentages of carbon powder, cupric chloride, calcium hydroxide, and/or potassium iodide of the instant claims 6, 10, 12, 20, 22, and 26-33 would not have been obvious to one of ordinary skill in the art at the time the invention was made.

Response to Arguments

13. Applicant's arguments filed 7/28/03 have been fully considered but they are not persuasive.

Some rejections have been withdrawn and others added in view of Applicant's amendment.

It is argued that responsive to the final rejection... of an anticipatory reference. This is not persuasive because "adsorption of organic compounds..." is an intended use, and recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior

art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

It is argued that the Examiner argues that "[r]egarding... (see column 3, lines 35-36 and 41-42)." This is not persuasive because Abler discloses the broad range of at least 0.5, or more specifically 1 to 10 weight percent (see paragraph bridging columns 2-3).

It is argued that the Examiner's rationale for maintaining... recited in Abler. This is not persuasive for reasons already of record. Applicant's claims, broadly interpreted, could also be characterized as encompassing a "laundry list" of possible combinations, since Applicant uses open language "comprising".

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 703-305-0216. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EMJ
September 2, 2003

~~STANLEY S. SILVERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700~~